



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,767	12/29/2003	Avi Carmon	439/1	6480

7590 04/21/2005
MARK M FRIEDMAN
DR MARK FRIEDMAN LTD
DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

EXAMINER

LE, THIEN MINH

ART UNIT	PAPER NUMBER
----------	--------------

2876

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/747,767

Applicant(s)

CARMON ET AL.

Examiner

Thien M. Le

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The priority document filed on 12/19/2003 has been entered. Claims 1-11 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Gile et al. (Gile et al. – PGPUB No. 2004/0066276 A1; herein after referred to as Gile).

Gile discloses a "series of biometric information input devices, such as a fingerprint scanners are connected with onsite computers to monitor attendance at desired locations. The computers compare attendee biometric data with stored data for matches. Absences are automatically sent to a central computer after a brief time interval allowing corrections by an authorized computer operator. The central computer compares the absences with programmed excused absences and automatically reports absences to persons responsible for the absentees via phone, FAX, pager, E-mail, or other instant communication vehicles after a brief time interval allowing for human corrections. Portable fingerprint scanners and handheld computers may be used at any location."

Figure 1 of Gile shows "a portable biometric information inputting means, such as a portable fingerprint scanner 21A, and a portable computing means, such as a handheld PDA 60 with an antenna 61, may be used for monitoring any desired location to determine authorization of individuals in the desired location, such as hall monitors in schools monitoring students in the halls. Safety and health issues are programmable into the system, such as specific health conditions of individuals, so that appropriate assistance can be obtained as rapidly as possible."

In operations, "each classroom 40 has a fingerprint reader 21 (e.g. Idteck #FGR006) and communicates via RS-232 or RS-485 protocol to the classroom computer 23 (a typical Personal Computer with a windows operating system (e.g. Microsoft Windows2000)). The classroom computer 23 has an attendance application, programmed to perform according to the flow diagram of FIG. 4, that refers to a

Art Unit: 2876

database of known fingerprints that is loaded via the school network (fiber-optic, 10/100 Base-T (Cat5 cable), or wireless (e.g. 802.11a or 802.11b)). As each student enters the classroom 40 the student touches the fingerprint reader 21. The reader shows a green or red LED indicating acceptance/rejection of the fingerprint (#1 on FIG. 4). As identification is made, the student ID is compared with the list of students enrolled for that class (#2 and 3, and possibly #4 for non-enrolled student with #5). At the start of the class (#6), the teacher can look at the computer screen to see who is missing and compare that list with who is there and who is excused. The teacher makes any necessary changes (#7). At some specified time after the start of class (e.g. 10 minutes) the classroom computer sends its list of absent students via the network to the office computer (#8 and 9). This time delay is related to whether a student is considered to be absent or just tardy. The system also allows the teacher to inform the office computer that a student (or the entire class) has been delayed at the end of a class and that information is relayed to the next class so that the student(s) will be expected to be tardy. The teacher can also relay information to the office and to the next teachers about behavioral issues regarding a specific student.”

As can be seen, Gile discloses an attendance monitoring system comprising a central office computer, a classroom computer 23 having the software application and database of student enrolling in the class, a fingerprint reader 21, and mobile PDA units 60. Accordingly, Gile discloses the claimed invention.

Regarding claim 2, Gile discloses the fingerprint reader 21 which would embrace all limitations set forth in this claim.

Art Unit: 2876

Regarding claim 3, the PDA unit 60 would embrace all limitations set forth in this claim.

Regarding claim 4, the PDA units are wireless terminals which would include internal batteries; and thus would embrace all limitations set forth in this claim.

Regarding claim 5, PDA units 60 are communicating with office computer via a wired LAN, a wireless network, etc. See the discussions regarding claim 1.

Regarding claim 6, see the discussions regarding claim 1 for the management software and the controller for maintaining the database, monitoring attendance and generating reports.

Regarding claims 7-8, see the discussions regarding claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gile et al. (Gile et al. – PG PUB No. 2004/0066276 A1; herein after referred to as Gile) .

Regarding claims 9-11, see the discussions regarding claims 1-8. The claims differ in calling for the use of the claimed inventions in various environments such as a conference, an airplane, or at a controlled entry such as busses, etc.

It is noted that though Gile does not mentioned the specific applications, Gile discloses that “the same theory of operation can be used for employee attendance at a business. Fingerprint or other identification can be used to show where employees are at what times. This data can be used for payroll calculations for hourly employees, client billings for project hours, or just keeping track of who is where. In some industries there is a requirement for a certain level of staffing for public safety or process control. If a staffing problem is noted, automatic notification can go to supervisors or others.”

It would have been obvious to implement Gile's systems to the claimed environments. The modification is considered within his suggestion of the use of his system in industries or environments which require "a certain level of staffing for public safety or process control". In this case, knowing the number of customers on the airplane, the numbers of required participants at a conference, the number of students on a bus all are viewed as environments that require some "process control" and monitoring.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (571) 272-2396. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2876

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Le, Thien Minh
Primary Examiner
Art Unit 2876
April 14, 2005